

Commissioner for Patents
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Serial No. 10/028,921

REMARKS/ARGUMENTS

This Office Action is a FINAL Action in which claims 1-6 are rejected under 35 U.S.C. 112, first paragraph in view of the fact that the phrase "...mid- to late-stage of..." introduced in claim 1 in our previous response constitutes new matter. In response, applicant has amended the claim to read "wherein said promoter is expressed during any stage of stamen development". Support for this phrase can be found at page 10, line 3 of paragraph 28. It is respectfully submitted that this amendment traverses the rejection under 35 U.S.C. 112, first paragraph.

Claims 1-5 currently stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of U.S. Patent No. 6,365,798.

Applicant submits a terminal disclaimer pursuant to 37CFR 1.321(c) as stated in form PTO/SB/26 provided herewith.

The rejection to claims 1-5 is thereby traversed.

In view of the filing of this terminal disclaimer and the amendment of claim 1 as described above, this application is now considered to be in condition for immediate allowance. Favourable reconsideration and early issuance of a Notice of Allowance are therefore respectfully requested.

Respectfully submitted,
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Date: August 23, 2004By: 

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